

a landlord, who had demised premises for a term of years at 50*l.* a year, agreed with his tenant to lay out 50*l.* in improvements, the tenant to pay an increased rent of 5*l.* *per annum* during the remainder of the term, and it was held that the landlord, having done the work, might recover arrears of the 5*l.* *per annum* against the tenant, though an agreement had not been signed by either party. And so is the case of a verbal sale of goods;<sup>67</sup> it often happens that they are not to be paid for in full, till after the expiration of a longer period than a year, but the law would not sanction a defence on that ground, where the buyer had had the full benefit of the goods on his part, *per Littledale J. ibid.* In such instances the full performance on one side has been accepted by or enured to the benefit of the other side. This case has been affirmed in England in *Cherry v. Heming*, 4 Exch. 631, and in *Smith v. Neale*, 2 C. B. N. S. 67, and in Maryland in *Ellicott v. Peterson*, 4 Md. 476.<sup>68</sup> In this latter case, an agreement by a grand-father to pay the plaintiff, a step-father, the expenses of supporting and educating two of the former's grand-children was held not within the Statute, because of its subject-matter, the death of the children being a contingency which might happen before the lapse of a year, and the agreement one which might have been performed within a year; (and see *Souch v. Strawbridge*, 2 C. B. 808, where the contract was to maintain a child, at defendant's request, so long as he, the defendant, should think proper, and held not within the Statute). The Court went on to say, that the Statute does not apply where the contract can, by any possibility, be fulfilled or completed in the space of a year, though the parties may have intended its operation to extend through a much longer period.<sup>69</sup> In *Anon.* 1 Salk. 280, it was held that a promise to pay money on the return of a ship, which did not return within two years, was not within the Statute, as, by possibility, it might have returned within a year. So in the leading case of *Peter v. Compton*, Skin. 353; 1 Smith's Lead Cas. 143, the defendant for one guinea promised to give the plaintiff so many on the day of his marriage, which did not take

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<sup>67</sup> The year clause applies as well to a contract for the sale of goods as to any other. *Prested Co. v. Gardner*, (1911) 1 K. B. 425; (1910) 2 K. B. 776.

<sup>68</sup> *Horner v. Frazier*, 65 Md. 13.

<sup>69</sup> This is the accepted construction. *Cole v. Singerly*, 60 Md. 348; *Horner v. Frazier*, 65 Md. 1; *Baltimore Breweries Co. v. Callahan*, 82 Md. 106; *Green v. Pa. Steel Co.*, 75 Md. 109; *Warner v. Ry. Co.*, 164 U. S. 418. A contract to marry is not within the year clause. *Lewis v. Tapman*, 90 Md. 294.

The following English cases on this clause may also be referred to: *Banks v. Crossland*, L. R. 10 Q. B. 97; *Knowlman v. Bluett*, L. R. 9 Ex. 1, 307; *Eley v. Assurance Co.*, 1 Ex. D. 20, 88; *Britain v. Rossiter*, 11 Q. B. D. 123; *McGregor v. McGregor*, 21 Q. B. D. 424; *Miles v. New Zealand Co.*, 32 Ch. D. 296; *Sidebotham v. Holland*, (1895) 1 Q. B. 378; *Smith v. Gold Explorers*, (1903) 1 K. B. 285, 538; *Reeve v. Jennings*, (1910) 2 K. B. 522; *Hanan v. Erlich*, (1911) W. N. 31.